

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Consumers and Their Attorneys, Yes on Proposition 30 (the “Committee”) was a state ballot measure committee located in Sacramento. Respondent Committee was primarily formed to support a ballot measure in the 2000 primary election approving legislation that would allow certain third-party claimants to file suit against insurance companies. Respondent Committee was sponsored by Consumer Attorneys of California, United Policy Holders, Consumer Federation of California, and Congress of California Seniors. At all times relevant to this action, Joan Pollitt, whereabouts currently unknown, was the treasurer of Respondent Committee.

The Franchise Tax Board (the “FTB”) conducted an audit of Respondent Committee’s financial activity for the reporting period January 1, 1999 through June 30, 2000. During that reporting period, Respondent reported receiving contributions totaling \$6,288,781 and making expenditures totaling \$5,384,473. The FTB audit found that Respondent failed to timely disclose sub-vendor information for expenditures totaling \$2,830,762 during the audit period.

For the purposes of this stipulation, Respondent’s violations are stated as follows:

- COUNT 1: Respondent Consumers and Their Attorneys, Yes on Proposition 30 failed to report sub-vendor information for a \$960,000 payment to Morris and Carrick on the campaign statement for the reporting period January 1, 2000 through January 22, 2000, that was filed on January 27, 2000, in violation of section 84211, subdivision (j)(6), and section 84303 of the Government Code.
- COUNT 2: Respondent Consumers and Their Attorneys, Yes on Proposition 30 failed to report sub-vendor information for a \$500,000 payment to Morris and Carrick on the campaign statement for the reporting period January 23, 2000 through February 19, 2000, that was filed on February 28, 2000, in violation of section 84211, subdivision (j)(6), and section 84303 of the Government Code.
- COUNT 3: Respondent Consumers and Their Attorneys, Yes on Proposition 30 failed to report sub-vendor information for a \$400,000 payment to Morris and Carrick on the campaign statement for the reporting period January 23, 2000 through February 19, 2000, that was filed on February 28, 2000, in violation of section 84211, subdivision (j)(6), and section 84303 of the Government Code.

COUNT 4: Respondent Consumers and Their Attorneys, Yes on Proposition 30 failed to report sub-vendor information for a \$550,000 payment to Morris and Carrick on the campaign statement for the reporting period January 23, 2000 through February 19, 2000, that was filed on February 28, 2000, in violation of section 84211, subdivision (j)(6), and section 84303 of the Government Code.

COUNT 5: Respondent Consumers and Their Attorneys, Yes on Proposition 30 failed to report sub-vendor information for a \$400,000 payment to Morris and Carrick on the campaign statement for the reporting period January 23, 2000 through February 19, 2000, that was filed on February 28, 2000, in violation of section 84211, subdivision (j)(6), and section 84303 of the Government Code.

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that contributions and expenditures in election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose.

Section 82013, subdivision (a) includes within the definition of “committee” any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year.

Section 84211 prescribes that certain information must be disclosed on campaign statements filed by a committee, including information about contributions received, and expenditures made by the committee. Section 84211, subdivision (j)(6) requires campaign statements to additionally include information about each person who provided consideration for an expenditure of \$100 or more, if the person providing the consideration was different from the payee.

Section 84303 provides that no expenditure shall be made, other than for overhead and normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of, or for the benefit of, any candidate or committee, unless the expenditure is reported by the candidate or committee as if the expenditure was made directly by the candidate or committee. This is commonly referred to as the required disclosure of “sub-vendor” expenditures.

Requiring committees to report information about sub-vendor expenditures is necessary to prevent campaigns from avoiding disclosure of required information about their expenditures simply by making the expenditures through an agent.

## SUMMARY OF THE FACTS

The FTB conducted an audit of Respondent Committee for the reporting period January 1, 1999 through June 30, 2000. During the audit period, Respondent received contributions totaling \$6,288,781, and made expenditures totaling \$5,384,473.

Over the course of two reporting periods, Respondent failed to disclose any of the required sub-vendor information for expenditures made on behalf of Respondent Committee by Morris and Carrick. The expenditures for which the required sub-vendor information was not disclosed are set forth by count in the chart below:

| Count | Reporting Period | Name of Vendor     | Amt of Expenditure |
|-------|------------------|--------------------|--------------------|
| 1     | 1/1/00-1/22/00   | Morris and Carrick | \$960,000          |
| 2     | 1/23/00-2/19/00  | Morris and Carrick | \$500,000          |
| 3     | 1/22/00-2/19/00  | Morris and Carrick | \$400,000          |
| 4     | 1/22/00-2/19/00  | Morris and Carrick | \$550,000          |
| 5     | 1/22/00-2/19/00  | Morris and Carrick | \$400,000          |
|       | Total            | Morris and Carrick | \$2,810,000        |

On each of the reports, Respondent disclosed making significant expenditures to Morris and Carrick. Morris and Carrick was a paid media consultant that made payments to various sub-vendors on behalf of Respondent. Respondent failed, however, to report the name and address and amount expended for each of these sub-vendors, who received a total of \$2,810,000 in payments during the subject reporting periods.

By failing to report sub-vendor information for the foregoing payments, Respondent violated Section 84211, subdivision (j)(6), and Section 84303.

## ADDITIONAL INFORMATION

On March 1, 2000, prior to the primary election on March 7, 2000, the Fair Political Practices Commission received a complaint that Respondent had failed to timely report sub-vendor purchases as required by Government Code sections 84211 and 84303. On March 2, 2000, the then-Chief of the Enforcement Division, Cyrus J. Rickards, sent a letter to Respondent via facsimile and United States mail, notifying Respondent of the complaint which had been received, and instructing Respondent to immediately correct any reporting errors. However, Respondent did not amend the statements, as instructed, prior to the March 7, 2000 primary election. Amended statements were not filed by Respondent until April 14, 2000, approximately six weeks after the election.

## CONCLUSION

This matter consists of five counts, which carry a maximum possible administrative penalty of Ten Thousand Dollars (\$10,000).

The typical administrative penalty for campaign statement reporting violations occurring

prior to January 1, 2001 ranges between \$1,000 to \$2,000 per violation.

This case is aggravated by the fact that Respondent was asked by the FPPC to immediately amend its pre-election campaign statements filed on January 27, 2000 and February 28, 2000, to fully and accurately disclose the sub-vendor payments made on its behalf by Morris and Carrick, as set forth above, and failed to do so.

In mitigation, however, Respondent ultimately amended its statements to provide the sub-vendor information, even though it did not take the steps necessary to do so in a timely fashion. Further, all of the unreported sub-vendor payments were limited to media advertising, and all vendor payments to the paid media consultant were properly reported. Finally, neither Respondent nor any of Respondent's sponsors have a prior history of violating the Act.

The facts of this case, particularly the failure to act upon the FPPC's warning, and the large amount of sub-vendor information not timely disclosed, justify a stipulated settlement as set forth herein, including imposition of the agreed-upon penalty of Ten Thousand Dollars (\$10,000).